

Chapter PSC 2

PROCEDURE AND PRACTICE

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GENERAL

PSC 2.01 Communications and documents addressed to commission. (1) All written communications and documents should be addressed to Public Service Commission of Wisconsin, Hill Farms State Office Building, 4802 Sheboygan Avenue, Madison, Wisconsin 53702, and not to individual members of the staff. All communications and documents delivered at the office of the secretary are officially received.

(2) The secretary may designate agents to receive written communications and documents. Presiding officers will receive communications and documents at hearings.

(3) Office hours are 7:45 to 11:45 a.m. and 12:30 to 4:30 p.m., Monday through Friday. Offices are closed on Saturdays and Sundays and on holidays listed in section 16.275 (6), Wis. Stats.

History: 1-2-56; am. (1), Register, September, 1964, No. 105, eff. 10-1-64; cr. (3), Register, December, 1966, No. 132, eff. 1-1-67.

PSC 2.02 Parties. Parties to proceedings are known as complainants, defendants, interveners, respondents, applicants, objectors, and petitioners according to the nature of the proceeding and the relationship of the parties thereto.

(1) Parties who file complaints are complainants, the parties complained against are defendants, and other parties to the proceeding are interveners.

(2) In investigations or upon orders to show cause, the parties investigated or ordered to show cause are respondents. If the proceeding is initiated by the commission upon complaint, the parties complaining are complainants.

(3) All persons seeking approvals, authority, certificates of authority or of public convenience and necessity or other certificates, licenses, permits, or exemptions or other relief are applicants. Those opposing such applicants are objectors. Parties to such proceedings other than the applicants and objectors are interveners.

(4) Intervenors "As Their Interest May Appear" who fail to resolve their appearances further will be considered to be not "In Opposition" to the cause which initiated the proceeding.

History: 1-2-56; cr. (4), Register, December, 1966, No. 132, eff. 1-1-67.

PSC 2.03 Computation of time. The time within which an act is to be done as provided in any rule or order promulgated by the commission, when expressed in days, shall be computed by excluding the first day and including the last, except that if the last day be Saturday, Sunday, or a legal holiday, the act may be done on the next secular day. When any such time is expressed in hours, the whole of any intervening Saturday, Sunday, or legal holiday, from midnight to midnight, shall be excluded. When the time within which an act is to be done as specified in any rule or order promulgated by the commission is expressed in days and said period of time consists of less than 10 days, and said latter period contains both a Sunday and a legal holiday, as designated in section 256.17, Wis. Stats., the time within which said act may be done is increased by 2 additional days.

History: 1-2-56; am. Register, June, 1965, No. 114, eff. 7-1-65; am. Register, May, 1967, No. 137, eff. 6-1-67.

PSC 2.04 Furnishing copies of records. (1) One certified copy of the decision in a proceeding will be furnished free of charge at the time of issuance to each party of record, except that when a party of record is represented by counsel, a copy of the decision will be furnished to said counsel. When a municipal utility is a party of record to a proceeding, a copy of the decision will be furnished both to the management of the utility and to the appropriate official of the municipality free of charge at the time of issuance.

(2) General orders will be distributed free of charge at the time of issuance under the supervision of the secretary.

(3) Except for copies distributed free of charge as enumerated in subsections (1) and (2) of this section and in Wis. Adm. Code section PSC 2.36 (1), copies of transcripts, orders, or other records of the commission may be obtained upon payment, in advance, of applicable rates determined by the commission.

History: 1-2-56; am. Register, September, 1964, No. 105, eff. 10-1-64; am. Register, December, 1971, No. 192, eff. 1-1-72.

PSC 2.05 Service of documents. (1) Service of documents upon other parties in commission proceedings may be made by deposit thereof in the first class mail or by delivery in person.

(2) The date of service shall be the day when the matter served is deposited in the mail or is delivered in person, as the case may be.

COMPLAINTS AND INVESTIGATIONS

PSC 2.10 Informal complaints. (1) Informal complaints may be made in writing addressed to the commission. Letters may be considered as informal complaints. Matters thus presented are handled by correspondence or other informal investigation or by a formal investigation instituted by the commission upon its own motion.

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(2) Complaints with respect to public utility rates, practices, or service made by less than 25 persons (see section 196.26, Wis. Stats.) will be treated as informal complaints. The commission may initiate formal proceedings in such cases upon its own motion.

PSC 2.11 Formal complaints. No particular form of complaint is required. Formal complaints shall be in writing and shall state:

(1) The names, places of residence, and post office addresses of complainants;

(2) The name of the company or person complained of;

(3) The matter concerning which complaint is made. A sufficient number of copies shall be furnished to enable the commission to provide each defendant with one copy.

PSC 2.12 General procedure. Sections 196.26 to 196.34, Wis. Stats., prescribe the procedure to be followed in investigation and complaint proceedings involving public utility rates and service. The commission will follow the same procedure in other investigation and complaint cases so far as consistent with other provisions of the statutes and of these rules.

APPLICATIONS

PSC 2.20 Form of applications. Applications shall be in writing, shall state their object, shall contain a concise statement of the facts in support of the same, and shall be signed by the applicant or his authorized agent. They shall conform in all particulars to the requirements of applicable statutes and of these rules and of general orders of the commission. (For general orders see Wisconsin Administrative Code: Public Service Commission). Forms of applications in typical cases will be furnished upon request. See section PSC 2.80 for applications for motor carrier authority and assignment thereof.

PUBLIC HEARINGS

PSC 2.30 Notice of hearings. (1) Written notice of hearing will be sent to all parties and also to others requesting notice. The notice will be mailed sufficiently in advance to give parties, after receipt thereof, the full time provided by statute.

(2) A motor transportation calendar will be issued each week containing applications scheduled for hearing, grants of authority without hearing, full or partial assignments of authority approved without hearing, and changes in previously scheduled hearings. The weekly motor carrier calendar will be sent by first class mail to each person applying therefor, upon payment for a calendar year, or on a proportionate quarterly basis, of the charge determined by the commission and based primarily on postage rates. The motor transportation calendar will be mailed to each county clerk with a request for posting in a prominent place in the court house. Copies will also be furnished to various publications of motor carrier organizations in Wisconsin upon request and to newspapers of general circulation and will also be posted in the main office and in the motor carrier authorities section of the transportation division of the public service commission.

(3) When the commission deems a hearing necessary for the discontinuance of train service under section 196.81, Wis. Stats., it shall give notice in such proceeding by mailing a copy of the notice to the

clerk of every incorporated city or village, where the railroad company maintains a station, along the portion of the line on which discontinuance of service is proposed.

(4) Anyone who has an interest in an application and so informs the commission in writing will be notified of any changes or cancellation of hearing.

History: 1-2-56; am. (2), Register, September, 1964, No. 105, eff. 10-1-64; cr. (4), Register, December, 1966, No. 132, eff. 1-1-67; am. (2), Register, December, 1971, No. 192, eff. 1-1-72.

PSC 2.31 Conduct of hearings. (1) Public hearings will be conducted by one or more commissioners or a duly authorized examiner. Parties making exceptions to rulings may present the same to the commission for review in the manner provided in section PSC 2.35 (1).

(2) The presiding officer will open the hearing and make a concise statement of its scope and purposes. Appearances then will be entered on the record. If the matter is contested, the examiner then will state the issues in the proceeding. Thereafter, parties may make motions or opening statements in accordance with the practice in circuit courts of Wisconsin.

(3) When opening statements are made they shall be confined to: (a) a brief summary or outline in clear and concise form of the evidence intended to be offered; and (b) a statement of ultimate legal points relied upon. There shall be no argument on either the facts or legal theories.

(4) Parties may be off the record only when the examiner permits. If a discussion off the record is pertinent, the examiner will summarize it on the record. Any argument before the examiner on objections to receipt of evidence or on motions to strike will not be recorded. The legal reasons for the objection or motion will be recorded.

(5) No smoking is permitted during hearings. A 10-minute recess is taken at approximately the end of each hour of hearing.

History: 1-2-56; cr. (5), Register, December, 1966, No. 132, eff. 1-1-67.

PSC 2.32 Appearances. (1) A person desiring to participate in a proceeding, whether on his own behalf or as an authorized agent or attorney, shall enter his appearance in person by giving his name and address and the name and address of any party he represents and in what capacity he is employed by such party.

(2) Members of the commission staff appear neither in support of nor in opposition to any cause, but solely to discover and present, if necessary, facts pertinent to the issues.

History: 1-2-56; am. (1), Register, December, 1966, No. 132, eff. 1-1-67.

PSC 2.33 Changes in time or place of hearing; adjournments. Changes in the time and place of the first session of the hearing in any proceeding will be granted only for good cause shown in a written request, made to the commission reasonably in advance of the time set, showing when and how copies of such request were served upon other known parties. Changes will not be granted in the time and place of the first session of a hearing set by legal publication in a newspaper or by statutory posted notice. Changes will not be made, except in extreme circumstances, when the parties to the proceeding are not known. After a hearing has been called, adjournment thereof shall be under the direction of the examiner.

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The commission, upon its own motion, may change the time and place of any session. Requests for postponement of hearings on applications for motor carrier operating authority, to be considered by the commission, must be filed no later than Wednesday in the week preceding a hearing scheduled on or after Thursday.

History: 1-2-56; am. Register, December, 1966, No. 132, eff. 1-1-67.

PSC 2.34 Order of presenting evidence. Evidence ordinarily will be received in the following order:

(1) Upon investigation on motion of the commission instituted upon informal complaint—(a) the complainants and supporting interveners, (b) the respondent and supporting interveners, and (c) the commission's staff.

(2) Upon other investigations on motion of the commission—(a) the commission's staff, (b) the respondent, and (c) interveners.

(3) Upon applications and petitions—(a) the applicant or petitioner and supporting interveners, (b) objectors and their supporting interveners, and (c) the commission's staff.

(4) Upon formal complaints—(a) the complainant, (b) interveners supporting the complaint, (c) the defendant, (d) interveners supporting the defense, and (e) the commission's staff.

(5) Upon order to show good cause—(a) the commission's staff, (b) the respondent, and (c) interveners.

(6) Upon petition for hearing under section 194.34 (1), Wis. Stats.—(a) the applicant for authority and supporting interveners, (b) objectors and their supporting interveners, and (c) the commission's staff.

(7) Upon rehearing—(a) the applicant for rehearing and supporting interveners, (b) other parties, and (c) the commission's staff.

PSC 2.35 Rules of evidence. Rules of evidence are governed by section 227.10, Wis. Stats. (1) (a) Any party dissatisfied with a ruling by the presiding officer during a hearing may have such ruling reviewed by the commission by 1. noting an exception in the record, 2. submitting to the commission within 7 days of the date of mailing of the transcript containing such ruling a statement in writing showing the nature of the ruling and a brief summary of the reasons why such ruling is claimed to be erroneous, and 3. simultaneously serving copies of such statement upon all counsel in the proceeding. Other counsel may reply thereto. Failure of a party noting an exception in the record to perfect the exception as above provided shall constitute waiver of the noted exception. The commission will not rule upon exceptions to rulings of a presiding officer unless the foregoing requirements are complied with.

(b) Records and documents of the commission may be offered in evidence by any party or by the commission's staff, but if offered by reference shall be specified as to particular documents or portions of the record thus offered, shall be designated as items (identified by capital letters in sequence) rather than as exhibits, and shall be subject to the provisions of subsections (4) and (6) of this rule. Incorporation by reference to commission records and documents will be allowed only as provided herein.

(2) When evidence to be presented consists of technical matter or figures so numerous as to make oral presentation difficult to follow,

it shall be presented in exhibit form, supplemented and explained but not duplicated by oral testimony.

(3) Written or printed documents and maps received in evidence may not be withdrawn except with the approval of the presiding officer.

(4) (a) Exhibits of documentary character should be typed on only one side of the paper with a sufficient margin for binding (1½ inches is suggested) on the left side of each sheet. If exhibits are more than 8½ inches by 11 inches in size they should be folded to approximately such dimensions. Exhibits of more than one page should be stapled together and pages numbered. The first page should provide space in the lower right-hand corner for exhibit number, docket number, and name of witness and should show the total pages in the exhibit. The source of information in the exhibit should be shown.

(b) Exhibits are numbered in sequence without designation as to which party submits them.

(5) Petitions or written communications addressed to the commission, not admissible as evidence, may be filed but will not be considered as evidence.

(6) Parties introducing documentary exhibits should be prepared to furnish copies to adverse parties and may be required, in the discretion of the examiner, to furnish such copies.

(7) In larger cases, parties may shorten hearings by preparing written testimony and exhibits and sending copies in advance to known other parties and to the commission. Such written testimony may be offered for inclusion in the transcript as though given orally subject to motions to strike any portion to which there is objection.

(8) When an objection to the receipt of evidence or a motion to strike evidence is made and the objector has stated his legal reasons for the objection or motion, any argument that follows will not be taken down by the reporter.

History: 1-2-56; am. (1), renum. (4) to be (4) (a), cr. (4) (b), cr. (8), Register, December, 1966, No. 132, eff. 1-1-67.

PSC 2.36 Transcripts. (1) Proceedings in hearings will be transcribed and one copy of the transcript will be furnished each party free of charge upon request by such party on the record at the hearing. Additional copies of transcripts will be furnished upon request, and upon payment of charges in advance as provided for in Wis. Adm. Code section PSC 2.04 (3).

(2) Any party, within 7 days of the date of mailing of the transcript, may file with the commission a notice in writing of any claimed error therein and shall mail a copy of such notice to each party of record. Other parties may contest any claimed error within 12 days of the date of mailing of the transcript by a filing with the commission and the mailing of copies to other parties. All parties will be advised by the commission of any authorized corrections to the record.

History: 1-2-56; am. Register, April, 1956, No. 4, eff. May 1, 1956; am. Register, December, 1966, No. 132, eff. 1-1-67; am. (1), Register, December, 1971, No. 192, eff. 1-1-72.

PSC 2.37 Close of hearing and evidence. (1) A hearing is closed when evidence is closed and when any period fixed for filing of briefs, presentation of oral argument, or both, has expired. If the time for

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